THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.1621 OF 2007

DATED: 19-02-2007

BETWEEN

Smt. Asma Khan,
W/o. Iqbal Ahmed Khan,
R/o. Kharkhanagadda,
Karimnagar.

...PETITIONER

AND

The Superintendent of Police,
Karimnagar District, Karimnagar
and others.

...RESPONDENTS

ORDER:

Petitioner seeks a Writ of Mandamus to declare the action of the second respondent in not taking action against the third respondent even though a case in Cr.No.346 of 2006 was registered on 14.09.2006 against him under Section 420 of the Indian Penal Code, 1860, which is a cognizable offence; as illegal and arbitrary.

2. Counter has been filed stating that pursuant to the complaint lodged by the petitioner on 14.09.2006 a case in Cr.No.346 of 2006 under Section 420 IPC was registered and investigation was taken up. During the course of investigation it was revealed that no sufficient evidence is available to establish that the accused committed the cognizable offence with which he was charged. Accordingly,
a letter dated 17.01.2007 was addressed to the Sub Divisional Police Officer, Karimnagar, requesting him to accord permission to refer the case of the petitioner as lack of evidence, which is awaited.

It is stated that the appropriate report shall be filed before the Court at the earliest by following due process of law.

3. In view of the aforesaid facts and circumstances, the second respondent is directed to furnish the said report, yet to be filed before the concerned Court, to the petitioner, so as to enable him either to file a protest application or to file a private complaint under Section 200 read with 190 of the Code of Criminal Procedure, 1973, before the concerned Magistrate for taking appropriate action.

The writ petition is accordingly disposed of. There shall be no order as to costs.

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V. ESWARAIAH, J

February 19, 2007
DSK